

File 2

February 19, 1975

Commander (nep)
United States Coast Guard
Third District
Governor's Island, New York 10004

ATTN: Commander E. Bizzozero

Re: Civil Penalty Assessment,
Section 311(b)(6), FWPCA of 1972;
L. E. Carpenter Company, 170 Main
Street, Wharton, New Jersey

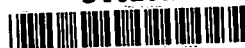
Dear Commander Bizzozero:

Enclosed for your information are documents pertaining to a discharge of an undetermined quantity of petroleum derivatives in the form of xylene, toluene, C₃ substituted alkyl benzenes, and traces of paraffins. These petroleum derivatives flowed from the discharger's property located at 170 Main Street, Wharton, New Jersey into a creek adjacent to the property, and thence into the Rockaway River, an intake source for the reservoirs of Jersey City and Passaic water works.

The above-mentioned spill appears to be in violation of §311(b)(3) of the Federal Water Pollution Control Act Amendments of 1972; we are recommending that appropriate action be taken pursuant to §311(b)(6) of the Act. It is our opinion that a penalty of no less than \$5000 (FIVE THOUSAND DOLLARS) would be appropriate in this case. EPA bases its conclusion on the fact that the company is presently operating under an NPDES discharge permit, this discharge being in violation of that permit. In addition, the company failed to notify any agencies of the spill, and the spill was detected only after a fish kill had taken place. Finally, our investigators have determined that the facility in question is in violation of 40 CFR Part 112, in that it failed to have at the facility a copy of a Spill Prevention Control and Countermeasure Plan. In light of these facts, it is recommended that the Coast Guard not compromise the maximum assessable penalty.

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If we can be of further assistance in this case, please do not hesitate to contact me at the above address, or at (212) 264-4430.

Very truly yours,

Henry Gluckstern
Attorney
Oil and Hazardous Materials
Enforcement and Regional
Counsel Division

cc: Paul Elliot, Edison, N.J.
Frank Hall, EPA Washington

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